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WLF Urges Supreme Court To Stay Illegal OSHA Vaccine Mandate And Hear Challenges Now

(*Job Creators Network v. OSHA*)

“The Occupational Safety and Health Administration exceeded its statutory power and is bent on destroying our nation’s economy.”

—John Masslon, WLF Senior Litigation Counsel

WASHINGTON, DC—On December 20, Washington Legal Foundation (WLF) urged the U.S. Supreme Court to reinstate a stay of an emergency temporary standard issued by the Occupational Safety and Health Administration. WLF argues that OSHA exceeded its statutory authority and that its action will hurt the economy if the Supreme Court does not intervene now.

The case arises from OSHA’s issuing an emergency temporary standard that requires all employers with more than 100 employees to require workers to get COVID-19 vaccines. Those workers who decline vaccination must test weekly, at their own expense, or else be removed from the workforce. The Fifth Circuit properly stayed the ETS. But after the multi-circuit lottery assigned the numerous challenges to the Sixth Circuit, that court dissolved the stay.

In its *amicus* brief supporting eight applications filed to stay the ETS, WLF explains how OSHA’s action will harm our nation’s economy. The whole country is currently facing severe supply-chain issues. This is mainly due to a worker shortage. And that worker shortage is due to vaccine mandates imposed by companies and governments. If the ETS is allowed to remain in effect, more workers in the supply chain will leave their jobs, deepening the crisis. The brief also explains why the twenty-one month gap between when the COVID-19 pandemic started and OSHA’s issuing the ETS shows that the standard should have undergone the normal notice-and-comment rulemaking process.

Finally, WLF urges the Supreme Court to take the extraordinary step of granting certiorari before judgment. That allows the Supreme Court to decide the ETS’s legality without waiting for the Sixth Circuit to issue a final judgment and go through the normal certiorari process. As WLF’s brief explains, the cases will become moot before the Court can decide the important issues raised in the ETS challenges. WLF therefore believes that the Court should immediately stay the ETS and grant certiorari before judgment.

Celebrating its 44th year, WLF is America’s premier public-interest law firm and policy center advocating for free-market principles, limited government, individual liberty, and the rule of law.

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